

REMARKS

As a threshold matter, Applicants note that a supplemental Information Disclosure Statement (IDS) was filed for this application on June 10, 2005, which was after the Examiner's Office Action was mailed (on May 25, 2005) but before it was received. Accordingly, the Examiner has not yet indicated that the references included in that IDS have been considered, and Applicants respectfully request that the Examiner acknowledge consideration of the references of the previously submitted IDS by initialing each reference on a copy of the IDS and returning the copy to the Applicants' representative.

Overview

Claims 66-91, 93-106, 108-110, 115, 117, 119-131, and 135-138 currently stand allowed, and claims 112-113 are objected to as being dependent upon a rejected base claim. The Examiner also responded in the prior Office Action as follows: rejected claims 111, 114, and 132-133 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Applicants hereby amend claims 111, 112, 114 and 132 in order to clarify the subject matter of their invention, and add new claims 139-209. Thus, claims 66-91, 93-106, 108-115, 117, 119-133, and 135-209 are now pending.

Analysis

Applicants thank the Examiner for the indication of allowable subject matter with respect to all of the pending claims other than system claims 111, 114, 132 and 133. The Examiner has rejected those claims under 35 U.S.C. § 101 based on a purported lack of recitation of computer hardware in the claim body. Applicants disagree with the basis for these rejections and believe that previously pending claims 111, 114 and 132-133 are in allowable form, and in particular note the recent decision by an expanded panel of the Board of Patent Appeals and Interferences in the matter of *In Ex parte Lundgren*, Appeal No. 2003-2088 (Precedential BPAI opinion September 2005), in which the Board rejected the Examiner's argument that the claimed invention was "outside the technological arts" because it lacked "disclosure or suggestion of computer, automated means, [or] apparatus of any kind" (Lundgren, page 4, emphasis added), as well as reiterating that no separate "technological arts test" even exists. Nonetheless, pending

claims 111, 114, 132 and 133 have been amended to expedite prosecution of this application and are believed to be in a form that addresses the Examiner's concerns.

In addition, new claims 139-209 have been added, and are each believed to be in a form indicated by the Examiner to be allowable. In particular, new claims 139-153 depend from independent claim 94, new claims 174-178 depend from independent claim 108, new claims 179-183 depend from independent claim 111, and new claims 184-193 depend from independent claim 138, and thus are each allowable for at least the same reasons as the claims from which they depend. Similarly, new independent computer-readable medium claim 154 and new independent computing device claim 164 each recite language similar to that of independent method claim 94, and are thus each believed to be allowable for at least the same reasons as claim 94, as are claims 155-163 and 165-173 that depend from claims 154 and 164, respectively. In a similar manner, new independent computer-readable medium claim 194 and new independent computing device claim 202 each recite language similar to that of independent method claim 138, and are thus each believed to be allowable for at least the same reasons as claim 138, as are claims 195-201 and 203-209 that depend from claims 194 and 202, respectively.

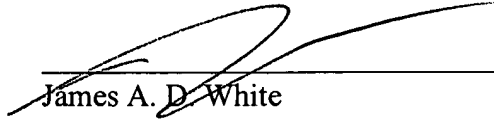
Conclusion

In light of the above remarks, Applicants respectfully submit that all of the pending claims are allowable, and respectfully request the Examiner to timely allow all pending claims. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (206) 694-4815.

Application No. 09/894,281
Reply to Office Action dated May 25, 2005

The Director is authorized to charge any additional fees due by way of this Amendment,
or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,
SEED Intellectual Property Law Group PLLC



James A. D. White
Registration No. 43,985

JDW:jaa

Enclosure:
Postcard

701 Fifth Avenue, Suite 6300
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031